



9110-04-P

## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 117**

**[Docket No. USCG-2016-0963]**

**RIN 1625-AA09**

### **Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Supplemental notice of proposed rulemaking.

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**SUMMARY:** The Coast Guard proposes to change the operating schedule that governs the State Route 22 Bridge (Madisonville (SR 22) swing span bridge) across the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana. This action is necessary to relieve vehicular traffic congestion along SR 22 near Madisonville, LA during peak, afternoon weekday traffic periods.

**DATES:** Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0963 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the “Public Participation and Request for Comments” portion of the

SUPPLEMENTARY INFORMATION section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or e-mail Mr. Doug Blakemore, Eighth Coast Guard District Bridge Administrator; telephone (504) 671-2128, email Douglas.A.Blakemore@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
LA-DOTD	Louisiana Department of Transportation and Development
NPRM	Notice of proposed rulemaking
§	Section
SNPRM	Supplemental notice of proposed rulemaking

**II. Background, Purpose and Legal Basis**

The State Route 22 Bridge (Madisonville (SR 22) swing span bridge) across the Tchefuncta River, mile 2.5, at Madisonville, St. Tammany Parish, Louisiana, is regulated under 33 CFR 117.500 and has a vertical clearance of 6.2 feet above Mean High Water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. The draw of this bridge opens on signal from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m., the draw opens on the hour and half hour, except that from 6 a.m. to 9 a.m. and from 4 p.m. to 7 p.m. Monday through Friday except federal holidays, the draw opens only on the hour. Navigation on the waterway consists primarily of recreational traffic as the largest commercial facility upstream of the bridge is no longer in service.

On November 4, 2016, at the request of the Louisiana Department of Transportation and Development (LA-DOTD), the Coast Guard issued a temporary deviation titled “Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA” (81 FR 76866). There, we stated that the 180-day deviation would test a temporary

change to the operating schedule of the Madisonville (SR 22) swing span bridge to determine whether a permanent change is necessary. From November 21, 2016 through May 18, 2017, this deviation extended the time between openings from 30 minutes to an hour between 6 a.m. and 7 p.m. daily, and allowed the bridge to remain closed at 8 a.m., 5 p.m., and 6 p.m. Monday through Friday except federal holidays. During the comment period that closed on January 18, 2017, we received no comments.

On November 4, 2016, concurrent with the test deviation and on the basis of a recent traffic study conducted by LA-DOTD, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Drawbridge Operation Regulations; Tchefuncta River, Madisonville, LA” (81 FR 76889). There, we stated that the traffic study indicated that the intersection of SR 22 and SR 21/SR1077 is over capacity at peak hours and causes unacceptable levels of delay to roadway traffic, which is compounded by the opening of the Madisonville (SR 22) swing span bridge during peak hours. The traffic study also indicated that a combination of modifications of the traffic controls at this intersection and the operating schedule of the Madisonville (SR 22) swing span bridge would enhance the flow of vehicular traffic over SR 22. The NPRM proposed a change to the schedule of the Madisonville (SR 22) swing span bridge that extended the time between openings from 30 minutes to an hour between 6 a.m. and 7 p.m. daily, and allowed the bridge to remain closed at 8 a.m., 5 p.m., and 6 p.m. Monday through Friday except federal holidays. During the comment period that closed on January 18, 2017, we received no comments.

LA-DOTD planned to conduct a study of vehicular traffic flow over the bridge as it related to a four way stop sign and traffic light at the intersection of SR 22 and SR 21

during the temporary deviation period. The LA-DOTD planned to complete four separate traffic studies at this intersection: a baseline traffic analysis across the SR 22 bridge with the original regulation and a four-way stop sign in place at the intersection of SR 22 and SR 21, a traffic analysis with the temporary deviation to the regulation and a four-way stop sign in place at the intersection of SR 22 and SR 21, a traffic analysis with the temporary deviation to the regulation and a traffic light in place at the intersection of SR 22 and SR 21, and a traffic analysis with the original regulation and a traffic light in place at the intersection of SR 22 and SR 21. On May 18, 2017, the temporary deviation expired at the end of its scheduled 180 days.

### **III. Discussion of Comments and Change**

On May 26, 2017, LA-DOTD requested that the Coast Guard permanently change the regulation based on information provided in the traffic study, which is available in the docket where indicated under ADDRESSES. LA-DOTD also provided supplemental data and information on the population growth in St. Tammany Parish, including information on vehicle traffic counts on SR 22 from 2015, the locations of schools in the vicinity of SR 22 that contribute to vehicle congestion, St. Tammany Parish projected population growth rates, and residential construction permit growth.

LA-DOTD requested that the regulation change as follows:

The draw on the SR 22 Bridge, mile 2.5, at Madisonville, shall open on signal from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m., the draw need only open on the hour, except that the draw need not open for the passage of vessels at 8 a.m., 5 p.m. and 6 p.m. Monday through Friday except federal

holidays. The bridge will open at any time an emergency.

LA-DOTD's regulation change request has three components. First, it requests that the Coast Guard extend the daily openings from half-hour intervals to hourly intervals both on weekdays and on weekends. Second, it requests that the bridge stay closed at 8 a.m. on weekdays. Third, it requests that the bridge stay closed at 5 p.m. and 6 p.m. on weekdays.

On December 12, 2017, the Coast Guard informed LA-DOTD by letter that there was still insufficient data or information to correlate bridge openings with traffic flow over this bridge for the hourly interval request and for the 8 a.m. weekday closure request, which is available in the docket where indicated under ADDRESSES. The LA-DOTD study did not collect traffic data for the time periods 6 a.m. through 4 p.m., nor did the supplemental data sufficiently address changing the regulation at these times. However, the Coast Guard determined that there is a potential correlation between traffic congestion and bridge openings in the afternoon and that a regulation change may alleviate vehicular traffic while also providing for the reasonable needs of navigation.

#### **IV. Discussion of Proposed Rule**

The Coast Guard has reviewed the data and information provided by LA-DOTD and has determined that there is a possible correlation between bridge openings for vessel traffic and vehicular congestion during peak traffic times from 4 p.m. to 6 p.m. Monday through Friday. This supplementary notice of proposed rulemaking (SNPRM) proposes to change the bridge operating schedule and allow the bridge to remain closed to marine traffic at the scheduled openings 4 p.m., 4:30 p.m., 5 p.m., and 5:30 p.m. Monday through Friday except federal holidays. This would allow vehicles to travel unimpeded

by bridge openings for a two and a half hour period during peak rush hours along SR 22 near Madisonville, LA. There are no other proposed changes to the operating schedule. The regulatory text we are proposing appears at the end of this document.

## **V. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive orders and we discuss First Amendment rights of protestors.

### **A. Regulatory Planning and Review**

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This SNPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the SNPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on a reduction of commercial vessel traffic on this waterway, and the recreational powerboats and sailboats that routinely transit the bridge under the proposed schedule. Those vessels with a vertical clearance requirement of less than 6.2 feet above mean high water may transit the bridge at any time, and the bridge will open in case of emergency at any time. This regulatory action takes into account the reasonable needs of vessel and vehicular traffic.

### **B. Impact on Small Entities**

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires

Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on the November 4, 2016 NPRM. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this

rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted



for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a change to the operating schedule of a drawbridge. It is categorically excluded from further review under paragraph L49 of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 01. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

### **VI. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include

the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this SNPRM as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

## **PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.500 to read as follows:

### **§ 117.500 Tchefuncta River.**

The draw of the S22 Bridge, mile 2.5, at Madisonville, LA shall open on signal from 7 p.m. to 6 a.m. From 6 a.m. to 7 p.m. the draw need only open on the hour and half hour, except that:

- (a) From 6 a.m. to 9 a.m. Monday through Friday except federal holidays the draw need only open on the hour; and
- (b) From 4 p.m. to 5:30 p.m. Monday through Friday except federal holidays the draw need not open.

Dated: June 7, 2018.

Paul F. Thomas,  
Rear Admiral, U.S. Coast Guard,  
Commander, Eighth Coast Guard District.

[FR Doc. 2018-12742 Filed: 6/13/2018 8:45 am; Publication Date: 6/14/2018]